



Department  
for Work &  
Pensions

Central FoI Team  
Caxton House  
6-12 Tothill Street  
London  
SW1H 9NA

[www.dwp.gov.uk](http://www.dwp.gov.uk)

Email: [freedom-of-information-request@dwp.gsi.gov.uk](mailto:freedom-of-information-request@dwp.gsi.gov.uk)

Date 12/3/15

Our Ref: IR 64

Dear xxxxxxxxx,

Thank you for your Freedom of Information (FoI) internal review request received on 4/2/15, my apologies for the delay in replying. You asked:

*Please pass this on to the person who conducts Freedom of Information reviews.*

*I am writing to request an internal review of Department for Work and Pension's handling of my FOI request "The Law says you need to live on".*

*Firstly you were late with his request, this is not satisfactory you are a Gov. body who would demand that any person under your control (claimants) abide by your time frames or they would be Sanctioned, yet you answer willy nilly, you can't financially persecute people (and it is persecution) for being late with things, then be late yourselves! Shocking.*

*I do not believe that it will cost above the allowed amount to find out the information I require, however I will remove some questions in order to try to reduce your workload. I now would only like the following questions answered.*

*A, Please can you tell me exactly which law you are referring to here and please provide me with a copy of that law (not Act which is a statutory instrument).*

*You must know this law as you site (use) it on every DWP letter or correspondence where a benefit breakdown is included!*

*B, If the law say I need £X to live on am I not breaking the law if I then use that money for something other than living expenses?*

*A simple yes or no here, this involves no time at all so the cost will be negligible!*

*C, Has the DWP factored this "Law" into the fact people are having to use their benefit money "The Law says they need to live on" into paying "Bedroom Tax" as it is more commonly know?*

*Once again yes or no will suffice, so no time is involved.*

*E, How many First Tier Tribunal cases have the DWP lost in the whole of the UK?*

*As a Government body this fact must be readily available and already broken down as 2013 and 2014 so no time there either. Equally as every council has to by law to notify you of any successful appeals against them these figures should need no collating. So once again no time again here, other than a few computer clicks!*

*G, How much so far has the DWP spent progressing winners of FTT to the Upper Tribunal appeal?*

*As this according to your own figures under a separate FoIA is only 13 people "stayed" at the Supreme Court pending UTT hearings this too cannot be too hard to collate and certainly nowhere near the maximum you are claiming an exemption for.*

*In summation I have clarified what I want and removed some of the more hard to answer questions leaving you with what I consider to be an easy FoIA request.*

*Please rest assured should you refuse me at internal revue I will take this abuse of the Act immediately to the ICO a process I am familiar with and not averse to using.*

*A full history of my FOI request and all correspondence is available on the Internet at this address: [https://www.whatdotheyknow.com/request/the\\_law\\_says\\_you\\_need\\_to\\_live\\_on](https://www.whatdotheyknow.com/request/the_law_says_you_need_to_live_on)*

## DWP Response

In response to your request, I can confirm that the handling of your original request and response has now been appropriately reviewed and that I was unconnected with the handling of your original request.

As a result of this review I am satisfied that the original response was handled properly and that the outcome of your request was correct. The reasoning behind this decision is as follows in Fol 5165 you asked at point 4iv – ‘What is the total cost in Pounds thus far (to the nearest Thousand) from April 1st 2013 to the date of this request, that the DWP have spent on appeals to the First and Upper Tier? To include all legal advice and court time?’ and were informed that section 12 costs applied to this answer.

This request was in essence then replicated in Fol 5409 under points F and G – ‘How much has the DWP paid thus far (to the date of this request) spent on appealing the Bedroom Tax at First Tier Tribunal (FTT) level? And, How much so far has the DWP spent progressing winners of FTT to the Upper Tribunal appeal’. You were advised in that reply that section 12 costs applied, and as section 12 costs were applied properly applied as they relate to the whole of the request, not just parts of it, I am satisfied we replied properly.

Under section 16 of the FOIA we are obliged to assist you in providing options to narrow your request, by reforming or refocusing it, so that it will fall beneath the cost limit, and we could have been more helpful in this. As such please find enclosed further information relating to your review request email of 4/2/15.

*A, Please can you tell me exactly which law you are referring to here and please provide me with a copy of that law (not Act which is a statutory instrument).*

*You must know this law as you site (use) it on every DWP letter or correspondence where a benefit breakdown is included!*

*B, If the law say I need £X to live on am I not breaking the law if I then use that money for something other than living expenses?*

*A simple yes or no here, this involves no time at all so the cost will be negligible!*

*C, Has the DWP factored this "Law" into the fact people are having to use their benefit money "The Law says they need to live on" into paying "Bedroom Tax" as it is more commonly know?*

You have not specified which benefit you are referring to, however, the phrase "the amount the law says you need to live on" refers to the "applicable amount" of benefit, laid down in law that can be awarded if a person satisfies the conditions of entitlement.

The "applicable amount" for Jobseeker's Allowance is set down in The Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), Part VII – Amounts, regulations 79 to 87A and Schedule 1 – Applicable amounts, which can be found at: <http://lawvolumes.dwp.gov.uk/docs/a11-4001.pdf>.

The "applicable amount" for Income Support is set down in The Income Support (General) Regulations 1987 (S.I. 1987/1967), Part IV – Applicable Amounts, regulations 17 to 22A, Schedule 2 – Applicable amounts and Schedule 7 – Applicable amounts in special cases, which can be found at: <http://lawvolumes.dwp.gov.uk/docs/a6-2501.pdf>.

The "applicable amount" for Employment and Support Allowance is set down in The Employment and Support Allowance Regulations 2008 (S.I. 2008/794), Part 9 – Amounts of Allowance, regulation 67 – Prescribed amounts and Schedule 4 – Amounts, which can be found at: <http://lawvolumes.dwp.gov.uk/docs/a13-5101.pdf>.

The rates of benefit are not determined by 'living costs' and so is not possible to provide a breakdown on that basis. It does not include separate amounts for specific items of expenditure, such as food or fuel charges.

The Government firmly believe that claimants should be free to spend their benefit as they see fit, in light of their individual needs and preferences, rather than having a set pattern of expenditure imposed on them. Every claimant's requirements vary and to attempt to base rates upon the personal expenditure of individual recipients would produce an unfair and unsustainable system.

*E How many First Tier Tribunal cases have the DWP lost in the whole of the UK?*

*As a Government body this fact must be readily available and already broken down as 2013 and 2014 so no time there either. Equally as every council has to by law to notify you of any successful appeals against them these figures should need no collating. So once again no time again here, other than a few computer clicks.*

You have previously been advised in a response dated 6 January 2015, that Housing Benefit is administered by local authorities. As such, the local authority is the respondent in First-tier Tribunal appeals. The Department has, therefore, not lost any cases at First tier Tribunal level against the removal of the spare room subsidy.

*G How much so far has the DWP spent progressing winners of the FTT to the Upper Tribunal Appeal?"*

*As this according to your own figures under a separate FoIA is only 13 people "stayed" at the Supreme Court pending UTT hearings this too cannot be too hard to collate and certainly nowhere near the maximum you are claiming an exemption for.*

You have previously been advised, in our letter of 6 January 2015, that the Department had applied for permission to appeal to the Upper Tribunal in 211 cases, up to the end of November 2014. You were advised in the same response that the Department had been notified of 13 cases "which had been stayed behind the application for permission to appeal to the Supreme Court in the case of *R(on the application of MA and Others) and the Secretary of State for Work and Pensions*. Your query now relates to how much DWP has spent progressing winners of FTT to the Upper Tribunal appeals, and you go on to refer to the 13 cases stayed at the Supreme Court. Unfortunately I am not able to proceed with your request without clarification of the information you wish to receive. Please advise whether or not your request relates to the 211 permission to appeal applications made by DWP up until the end of November 2014 or whether it relates to the 13 cases stayed behind the application permission to appeal to the Supreme Court in *R(on the application of MA & Others) v SSP*.

If you have any queries about this letter please contact the Department quoting the reference number above.

Yours sincerely,

DWP Central FoI Team

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#### **Your right to complain under the Freedom of Information Act**

If you are not happy with this response you may request an internal review by e-mailing [freedom-of-information-request@dwpgsi.gov.uk](mailto:freedom-of-information-request@dwpgsi.gov.uk) or by writing to DWP, Central FoI Team, Caxton House, Tothill Street, SW1H 9NA. Any review request should be submitted within two months of the date of this letter. Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF [www.ico.org.uk/Global/contact\\_us](http://www.ico.org.uk/Global/contact_us) or telephone 0303 123 1113 or 01625 545745